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PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Peter A.J. van der Made

Serial No.: 09/642,625

Filed: August 18, 2000

For: Computer Immune System and  
Method for Detecting Unwanted  
Code in a Computer System

Group Art Unit: 2122

Examiner: Eric B. Kiss

Confirmation No.: 8243

PETITION UNDER 37 C.F.R. § 1.137(b) FOR REVIVAL  
OF AN APPLICATION UNINTENTIONALLY ABANDONED

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

January 13, 2006

Sir:

In response to the Notice of Abandonment mailed to the Applicant on October 17, 2005, the Applicant named in the patent application identified above hereby petitions under 37 C.F.R. § 1.137(b) to revive the patent application:

The above-referenced patent application went abandoned on June 1, 2005 for failure to timely pay the required issue fee within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85). The three month due date for paying the issue fee for this patent application was May 31, 2005.

I hereby certify that this correspondence is being facsimile transmitted to the Commissioner for Patents, Mail Stop Petition, P. O. Box 1450, Alexandria, VA 22313-1450, Facsimile No. 571-273-8300, on January 13, 2006.

  
Steven P. Wigmore, Reg. No. 40, 447

Serial No.: 09/642,625

The entire delay in filing the required reply of paying the issue fee from the due date until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional. Exhibit A attached hereto provides information regarding the delay.

The required reply to the Notice of Allowance was filed on March 30, 2005. However, the Applicant's representative mistakenly omitted the deposit account number on the Issue Fee Transmittal Sheet (Part B- PTOL-85) that was submitted on March 30, 2005. A corrected Issue Fee Transmittal Sheet is attached to this petition that lists the deposit account number.


A terminal disclaimer is not required to accompany this petition because this patent application was filed after June 8, 1995.

This initial petition should be considered timely because it has been filed within three months the Applicant was first notified that this application was abandoned (< January 17, 2006) and because it has been filed within one year of the date of abandonment (June 1, 2005). SEE M.P.E.P. § 711.03(c), subsection II, D, p 700-193

The Director is hereby authorized to charge the amount of \$1400 to cover the Issue Fee required by 37 C.F.R. § 1.18 and to charge the amount of \$1500 for the petition fee pursuant to 37 C.F.R. § 1.17(m), to **Deposit Account No. 11-0980**. A duplicate of this paper is attached.

The Director is further hereby authorized to charge any fees under 37 CFR 1.16 and 1.17 which may be required by this paper to **Deposit Account No. 11-0980**. The Applicant respectfully requests revival of the above-identified patent application.

Respectfully submitted,

  
Steven P. Wigmore  
Registration No. 40,447  
January 13, 2006

King & Spalding LLP  
45<sup>th</sup> Floor, 191 Peachtree Street, N.E.  
Atlanta, GA 30303  
404.572.4600  
K&S Docket: 05456.105041

# KING & SPALDING, LLP

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JAN 13 2006

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Atlanta, Georgia 30303-1763  
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[www.kslaw.com](http://www.kslaw.com)  
FAX TRANSMITTAL SHEET

January 13, 2006

TO: U.S. Serial No. 09/642,625

Company:

U.S. Patent and Trademark Office

Fax #: 571-273-8300

City/State:

Alexandria, VA 22313

Mail Stop Petition

FROM: Steven P. Wigmore

5551

Our Ref. #:

05456.105041

NUMBER OF PAGES (including transmittal sheet): 11

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## Notes/Comments:

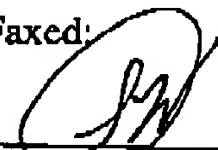
### Documents Submitted Via Facsimile:

Applicant: Peter A.J. van der Made

Serial No.: 09/642,625

Filed: August 18, 2000

For: Computer Immune System and Method for Detecting Unwanted Code in a Compute System

Papers Faxed:  Petition Under 37 C.F.R. § 1.137(b) For Revival Of An Application Unintentionally Abandoned in duplicate (8-pgs.); Corrected Copy of Issue Fee Transmittal in duplicate (2-pg.)

Serial No.: 09/642,625

EXHIBIT A  
ACCOMPANYING PETITION UNDER 37 C.F.R. § 1.137(b) FOR REVIVAL  
OF AN APPLICATION UNINTENTIONALLY ABANDONED

FACTS SURROUNDING THE UNITENTIONAL ABANDONMENT

The Applicants respectfully submit that a bona fide reply to the Notice of Allowance of February 28, 2005 comprising an issue fee transmittal was timely filed via facsimile with the U.S. Patent & Trademark Office (USPTO) on March 30, 2005. This bona fide reply was submitted two months prior to the expiration of three month statutory period to file the issue fee which was set to expire on May 31, 2005.

However, this bona fide reply, the Issue Fee Transmittal, of March 30, 2005 had one defect: it failed to identify the undersigned's deposit account with the USPTO. On March 30, 2005, the undersigned received the faxed auto-reply sheet from the USPTO confirming that all pages of the reply were received on March 30, 2005.

On June 23, 2005, the undersigned received a USPTO letter (PTO-90C) that was mailed on June 13, 2005 and that forwarded copies of PTO-1449 forms that were initialed by the Examiner in charge of the pending patent application. The Applicant had filed a request for the initialed PTO-1449 forms on March 11, 2005.

Because the Applicant did not receive an issue notification within eight weeks of the filing the issue fee transmittal, the undersigned's paralegal, Ms. Minikia Blair, contacted the USPTO on September 21, 2005 via phone to determine the status of the application. Specifically, Ms. Blair contacted a representative of the Office of Patent Publications (888.786.0101) who confirmed receipt of the issue fee transmittal and advised that the application was undergoing "initial data capture." The Publications representative advised the USPTO had not yet assigned a patent number and issue date for the application.

On October 24, 2005, the undersigned received the Notice of Abandonment that was mailed on October 17, 2005.


Serial No.: 09/642,625

**EXHIBIT A - CONTINUED**

The Director is authorized to charge any fees under 37 CFR 1.16 and 1.17 which may be required by this paper to **Deposit Account No. 11-0980**.

If the USPTO official deciding this petition has any questions or concerns, he/she is invited to contact the undersigned via telephone at (404) 572-2884.

Respectfully submitted,

  
Steven P. Wigmore  
Registration No. 40,447  
January 13, 2006

Serial No.: 09/642,625

EXHIBIT A  
ACCOMPANYING PETITION UNDER 37 C.F.R. § 1.137(b) FOR REVIVAL  
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EXHIBIT A - CONTINUED

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Respectfully submitted,

  
Steven P. Wigmore  
Registration No. 40,447  
January 13, 2006

**COPY**